IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

**THE HON'BLE MR JUSTICE C.V. RAMULU**

**WRIT PETITION NO :11466 of 2007**

**DATED: 27.9.2007**

**Between:**

The Ettikoppaka Sugar Factory Employees & Workers Union
And another petitioners

And

The Director of Sugar and Cane Commissioner,
Government of A.P.
Shakkar Bhavan, Near L.B.Stadium
Hyderabad and ors respondents

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ORAL ORDER:

This writ petition is filed seeking a mandamus declaring the action of the second respondent in not engaging sugar hamalies (seasonal workers) of the second respondent Sugar factory for the season 2007-08 as arbitrary and illegal and consequently direct the respondents to continue the sugar hamalies i.e., seasonal workers of the second respondent factory during the off-season 2007-08 without resorting to contract system.

The petitioner is Ettikoppaka Sugar factory employees and workers union, Darlapudi, Visakapatnam district. It appears that the members of the petitioner union are permanent seasonal workers of the said factory. Their grievance is that during off-seasons they are being engaged to attend the loading and unloading works in the sugar godowns, whereas for the off season 2007-08 tenders were invited and the petitioner union was not given any opportunity to participate in the tender process, as was done earlier. Therefore, the action of the respondents in not engaging the members of the petitioner union during the off-season is arbitrary and illegal.

This Court, while admitting the writ petition on 5.6.2007, granted interim direction directing the respondents to consider to engage the

petitioners in the sugar factory during off-season as were engaged during the off-season 2006-07.

Now along with counter affidavit a vacate stay petition is filed. In the counter affidavit, it is asserted that on the instructions of the Director of Sugar to minimize the financial losses, the contract system of engaging workers for loading and unloading was taken up. In fact during the

off season 2006-07, tender notification was issued as per the directions of the Director of Sugar and the petitioner union also participated and work of loading and unloading was allotted to them. This year i.e., for the off season 2007-08 when tender notification was issued, petitioners having knowledge about the same, did not participate and went on making representations, and in the meanwhile tenders were received and considered and the work was allotted to third party. Moreover, petitioners have not participated in the tender process, therefore, they have no right whatsoever to challenge the same. The writ petition is devoid of merits and is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material made available on record.

At the outset, I am of the opinion that the petitioners have no right whatsoever. May be the members of the petitioner union are seasonal (permanent) workers of second respondent sugar factory, but that itself does not confer any right on them for being engaged either continuously during off-season for loading and unloading works etc., nor as stated in the counter, they have participated in the tender process pursuant to the notification issued by the respondent sugar factory for engaging loading and unloading workers on contract basis.

The learned counsel for petitioner, however, submitted that the respondents behaved in a manner contrary to the interest of the members of the petitioner union. The tender notification was not made available to the petitioner union nor the representation made by them was considered, therefore the very allotment of contract in favour of third party is contrary and illegal. This of course, cannot be taken into consideration in this writ petition. The petitioner has not challenged awarding of contract to third party in pursuance of the notification issued by the second respondent sugar factory. If really, petitioner union is interested, it may work out its remedies in a properly constituted civil suit or if it is permissible by way of raising an industrial dispute before the appropriate authority under Industrial Disputes Act, 1947. The petitioner union has no right whatsoever to seek a mandamus against the sugar factory. The members of the petitioner union have no vested right whatsoever. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. The interim order granted on 5.6.2007 in W.P.M.P.No. 14272 of 2007 stands vacated. There shall be no order as to costs.

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C.V.RAMULU, J

DATE: 27.9.2007
TVK

37

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